

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

KURT CARSON,

Plaintiff,

v.

GENE STUBBLEFIELD, et al.,

Defendants.

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No. 4:16-CV-615 AGF

MEMORANDUM AND ORDER

Plaintiff, a prisoner, seeks leave to proceed in forma pauperis in this civil action under 42 U.S.C. § 1983. Having reviewed plaintiff's financial information, the Court assesses a partial initial filing fee of \$6.00, which is twenty percent of his average monthly deposit. *See* 28 U.S.C. § 1915(b). Additionally, this case is dismissed.

The Complaint

In his second amended complaint, plaintiff alleges that from July 2009 through July 2010 he was denied access to grievance forms, to religious materials, to a vegetarian diet, and to cleaning supplies.

Discussion

The complaint is subject to review under 28 U.S.C. § 1915(e). "Although the statute of limitations is an affirmative defense, a district court may properly dismiss an in forma pauperis complaint under 28 U.S.C. § 1915[] when it is apparent the statute of limitations has run." *Myers v. Vogel*, 960 F.2d 750, 751 (8th Cir. 1992). Section 1983 claims are analogous to personal injury claims and are subject to Missouri's five-year statute of limitations. *Sulik v. Taney County, Mo.*, 393 F.3d 765, 766-67 (8th Cir. 2005); Mo. Rev. Stat. § 516.120(4).

The limitations period expired in July 2015. Therefore, this case must be dismissed under 28 U.S.C. § 1915(e).

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for leave to file an amended complaint [ECF No. 8] is **GRANTED**

IT IS FURTHER ORDERED that the Clerk is directed to docket plaintiff's second amended complaint [ECF No. 8-1].

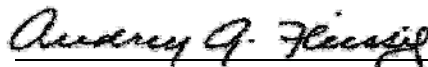
IT IS FURTHER ORDERED that to proceed in forma pauperis [ECF No. 2] is **GRANTED**.

IT IS FURTHER ORDERED that the plaintiff must pay an initial filing fee of \$6.00 within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.¹

IT IS FURTHER ORDERED that this action is **DISMISSED** without prejudice.

An Order of Dismissal will be filed separately.

Dated this 17th day of October, 2016.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

¹ Prisoners must pay the full amount of the \$350 filing fee. After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner will deduct the payments and forward them to the Court each time the amount in the account exceeds \$10. 28 U.S.C. § 1915(b)(2).